

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ALEJANDRO TARIN,

Plaintiff,

v.

UNITED STATES and BUREAU OF
CUSTOMS AND IMMIGRATION
ENFORCEMENT,

Defendants.

Case No. 04-cv-544-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 21) of Magistrate Judge Donald G. Wilkerson recommending that the Court grant in part and deny in part the defendants’ motion to dismiss (Doc. 20) and strike the defendants’ answer (Doc. 14).

After reviewing a magistrate judge’s report and recommendation, the Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in the report. Fed. R. Civ. P. 72(b). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 21);
- **GRANTS in part** and **DENIES in part** the defendants’ motion to dismiss (Doc. 20). The motion is granted to the extent it seeks dismissal of the plaintiff’s claim relying on 8 U.S.C. § 1431(a), as amended in 2000; the motion is denied to the extent it seeks

dismissal of the plaintiff's claim relying on 8 U.S.C. § 1432(a), repealed in 2000;

- **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case;
- **STRIKES** the defendants' answer (Doc. 14); and
- **ORDERS** that the defendants' shall have up to and including February 22, 2008, to file an answer that complies with all applicable rules.

IT IS SO ORDERED.

DATED: January 31, 2008

s/ J. Phil Gilbert

J. PHIL GILBERT
DISTRICT JUDGE